

THE CALIFORNIA LABOR AND WORKFORCE DEVELOPMENT AGENCY

INTRODUCTION

California is one of two major industrialized states without a cabinet-level labor agency modeled after the federal scheme. Coordination of gubernatorial programs and policies is important to California workers and employers, especially in the areas of labor standards, worker safety and protection, and training and regulatory policy.

For workers, coordination will result in improved access to employment and training programs and additional protection of their workplaces. For employers, coordination will enhance enforcement and extend a level playing field that decreases the unfair economic advantage of employers who do not pay employment taxes, the minimum wage or fail to provide workers' compensation coverage.

In general, other state agencies that share joint disciplines are organized under an agency structure. There is currently no formal coordination of labor and employment programs in state government. One of the guiding principles of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy is "... efficiency and effectiveness is maximized when similar functions are housed in a single point of authority, responsibility and accountability." While the director of the Department of Industrial Relations (DIR) is designated as a cabinet member, there is a need for increased policy and enforcement coordination that benefits workers, organized labor, industry, business and community organizations.

The state currently has multi-billion dollar job training programs administered by a number of state agencies. These programs were established in response to specific needs, each with its own set of policies and procedures relating to eligibility and performance standards, but they need to be more effectively integrated into the new federally mandated workforce investment system created by the Federal Workforce Investment Act of 1998. This 1998 act requires all employment and training programs to work together to provide customers with information about and access to job training, education, and employment services at a single One-Stop Career Center neighborhood location. The act also requires the establishment of a State Workforce Investment Board. The board oversees the implementation and maintenance of the new system and recommends policies improving the employment and training system in California.

The advent of such a system provides a strong rationale and impetus for the California Labor and Workforce Development Agency (agency) in the Governor's Cabinet bringing together the departments, boards and commissions that train, protect and provide benefits such as unemployment insurance and workers' compensation.

This plan proposes to begin the elimination of duplication, achieve cost efficiencies, and promote accountability and program access with the establishment of the agency effective July 1, 2002.

Objectives of Proposed Labor and Workforce Development Agency

This proposal for the creation of a Labor and Workforce Development Agency should be evaluated in the context of workforce development and workforce safety goals as stated by the Legislature and the Administration, including:

- Simplify, strengthen, and improve the operation and management of programs that protect and provide services to California's workers and employers
- Eliminate duplication, achieve cost efficiencies, and promote accountability and program access.

The agency would improve California's ability to achieve these goals. In addition, the agency would:

- Marshall its resources to systematically match worker training programs with regional labor market needs to create skilled, middle-class jobs that offer a secure future to Californians
- Create a primary point of accountability for the Administration and the Legislature to measure the success and the needs of the system
- Assure there is a Cabinet-level voice for workforce-related issues raised for the Governor's consideration and decision
- More closely coordinate enforcement activities so the Employment Development Department (EDD) can capture lost revenue from the underground economy while the DIR protects workers exploited in the underground economy
- Coordinate and manage information and data on the workforce and economy with a partnership between the DIR Division of Labor Statistics and Research and the EDD Labor Market Information Division
- Build on the successful One-Stop Taxpayer Service Centers operated by the EDD, the Franchise Tax Board and the Board of Equalization by adding services for employers and workers such as information on workers' compensation, labor standards, safe working conditions and job training opportunities

- Consolidate service points throughout California for the EDD, DIR and the Agricultural Labor Relations Board (ALRB)
- Coordinate the apprenticeship programs in the DIR with the employment and training programs at the EDD to meet the growing need and demand for skilled trade and craft workers
- Strengthen protection for sick or injured California workers by closer cooperation between the disability insurance program at EDD and the workers' compensation program at DIR.

The Scope and Process of Reorganization

The proposed Labor and Workforce Development Agency structure will simplify and streamline the administration of functionally integrated programs essential to the well-being of California workers and employers. A system that breaks down administrative and jurisdictional barriers will maximize its impact.

The California Government Reorganization Process

In 1967, the Legislature statutorily recognized the Governor's authority to reorganize the executive branch by using the "executive reorganization" process. That process begins with the Governor's submittal of a reorganization plan to the Little Hoover Commission, which examines the plan and reports its recommendations to the Legislature. Thirty days after submission to the Little Hoover Commission, the Governor may submit the plan to the Legislature. The plan becomes effective on the 61st calendar day of continuous session of the Legislature after the date on which the plan is submitted to the Legislature or at a later date identified by the plan. The plan goes into effect unless either house passes a resolution disapproving the reorganization plan within the 60-day calendar period. After the plan has become effective, the Legislative Counsel prepares, within 90 days, a bill effecting the statutory changes.

The executive reorganization process was established for instances like this – when there is a need for rapid executive action and potential for general agreement on key issues. Many elements of the plan for the agency are also found in legislation introduced in legislative sessions, most recently SB 25 which was introduced by Senator Richard Alarcon.

The Labor and Workforce Development Agency and its Functions

With this background, it is proposed that the agency consist of:

- California Labor and Workforce Development Agency, Office of the Secretary
- Agricultural Labor Relations Board
- California Workforce Investment Board
- Department of Industrial Relations, including:
 - California Apprenticeship Council

- Cal/OSHA Appeals Board
- Cal/OSHA Standards Board
- Commission on Health and Safety and Workers' Compensation
- Industrial Medical Council
- Industrial Welfare Council
- Workers' Compensation Appeals Board
- Employment Development Department, including:
 - California Unemployment Insurance Appeals Board
 - Employment Training Panel

More specifically, the proposed entities and their functions include:

Office of the Secretary

- 1. Management Goals:** The secretary, who will report to the Governor, will serve as the primary point of accountability for the management of worker protection and workforce training programs. The Office of the Secretary will bring together functions designed to simplify, strengthen and improve the operation and management of programs that provide services to California's employers and workers.
- 2. Proposed Functions:** The office will fulfill the agency secretary role for the boards, departments, councils and commissions within the agency. The secretary will advise the Governor and assist in the implementation of major policy and program matters. The Office of the Secretary also will serve as the principal communication link between the Governor and the constituent units of the agency.

Specific functions to be performed within the Office of the Secretary will include: budget review, review of personnel management, intergovernmental liaison (including the Legislature, local and national governments, and other parts of the state executive branch), information management coordination, strategic planning, a public advisor role and public information responsibilities.

The Office of the Secretary will be responsible for the coordination and oversight of department programs and activities, such as enforcement and fraud detection. In addition, the secretary will oversee the implementation of the workforce investment system to ensure it better responds to the employment, training and education needs of its customers.

The Office of the Secretary will be budgeted from existing sources.

3. Transferred Functions and Their Origins:

- Authority for agency secretary oversight of the EDD, the California Workforce Investment Board, the Employment Training Panel and the

Unemployment Insurance Appeals Board is transferred from the Health and Human Services Agency.

- Authority for agency secretary oversight for the Agricultural Labor Relations Board is established.
- Authority for agency secretary oversight for DIR, including the California Apprenticeship Council, the Cal/OSHA Appeals Board, the Cal/OSHA Standards Board, the Commission on Health and Safety and Workers' Compensation, the Industrial Medical Council, the Industrial Welfare Commission and the Workers' Compensation Appeals Board is established.
- Authority to advise the Governor on policies affecting these departments and boards, and to serve as the principal communications link between the Governor and these entities, is transferred from the secretary of the Health and Human Services Agency and the director of DIR.

Agricultural Labor Relations Board (ALRB)

1. **Management Goals:** The ALRB is responsible for conducting secret ballot elections to determine collective bargaining representation in agriculture, and for investigating and resolving unfair labor practice disputes and should be transferred intact to the labor agency.
2. **Proposed Functions:** All existing policy or regulatory functions of the ALRB will be retained by the ALRB.
3. **Transferred Functions and Their Origins:** The reorganization plan does not transfer any functions to or from the ALRB.

California Workforce Investment Board (state board)

1. **Management Goals:** The state board is responsible for recommending policies on workforce development issues, provision of integrated services, and program accountability.
2. **Proposed Functions:** The state board assists with the development of a five-year workforce investment plan, the designation of the local workforce investment areas and the establishment of the local workforce investment boards. The state board is responsible for reviewing local workforce investment area plans, for development of performance standards and an employment statistics system and for preparing an annual report.
3. **Transferred Functions and Their Origins:** The reorganization plan does not transfer any functions to or from the state board.

Department of Industrial Relations (DIR):

1. **Management Goals:** The DIR is responsible for protecting the workforce in California, improving working conditions and advancing opportunities for profitable employment.
2. **Proposed Functions:** All existing program functions of the DIR will be retained by the department.
3. **Transferred Functions and Their Origins:** The reorganization replaces the director of DIR on the Governor's Cabinet with the secretary of the Labor and Workforce Development Agency.

California Apprenticeship Council

1. **Management Goals:** The council provides policy advice on apprenticeship matters, issues rules and regulations on specific apprenticeship subjects to be published in California Code of Regulations, and conducts appeals hearings.
2. **Proposed Functions:** The council will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from council.

California Occupational Safety and Health Appeals Board:

1. **Management Goals:** The appeals board is responsible for handling appeals from private and public employers regarding citations issued by the Division of Occupational Safety and Health for alleged violations of workplace safety and health laws and regulations.
2. **Proposed Functions:** The appeals board will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the appeals board.

Occupational Safety and Health Standards Board

1. **Management Goals:** The board is responsible for adopting reasonable and enforceable standards at least as effective as federal standards. The board also grants or denies applications for variances from adopted standards and responds to petitions for new or revised standards.
2. **Proposed Functions:** The board will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the board.

Commission on Health and Safety and Workers' Compensation

1. **Management Goals:** The commission is responsible for the continuing examination of the workers' compensation system and of the state's

activities to prevent industrial injuries and occupational diseases and to examine those programs in other states.

2. **Proposed Functions:** The commission will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the commission.

Industrial Medical Council

1. **Management Goals:** The council is responsible for examining and appointing physicians to be qualified medical examiners who perform the examinations of injured workers that help determine the level of benefits to be received by a worker.
2. **Proposed Functions:** The council will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the council.

Industrial Welfare Commission

1. **Management Goals:** The commission is responsible for ascertaining the wages paid to all employees in the state, the hours and conditions of labor and employment in various occupations, trades and industries, and to investigate the health, safety and welfare of those employees.
2. **Proposed Functions:** The commission will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the commission.

Workers' Compensation Appeals Board

1. **Management Goals:** The appeals board is responsible for review of petitions for reconsideration of decisions by workers' compensation referees, and regulation of the adjudication process by adopting rules of practice and procedure.
2. **Proposed Functions:** The appeals board will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization proposal does not transfer any functions to or from the appeals board.

Employment Development Department (EDD)

1. **Management Goals:** The EDD is responsible for acting as an agent between employers and job seekers; providing benefit payments to unemployed and disabled workers; collecting payroll taxes; administering the employment and training programs under the Workforce Investment Act of 1998; and collecting and providing comprehensive economic, occupational and socio-demographic labor market information about California's workforce.

2. **Proposed Functions:** All existing functions will be retained by the EDD.
3. **Transferred Functions and Their Origins:** The reorganization plan does not transfer any functions to or from the EDD.

California Unemployment Insurance Appeals Board

1. **Management Goals:** The appeals board adjudicates disputes between appellants/petitioners and the EDD through an administrative hearing process in the areas of unemployment insurance and disability insurance.
2. **Proposed Functions:** The appeals board will retain all existing functions.
3. **Transferred Functions and Their Origins:** The reorganization plan does not transfer any functions to or from the appeals board.

Employment Training Panel (ETP)

1. **Management Goals:** The ETP provides training dollars to employers, primarily small businesses, to ensure they have the trained workers they need to compete in the global economy while providing workers with decent pay and secure employment.
2. **Proposed Functions:** The panel will retain all existing functions.
3. **Transferred Functions and their Origins:** The reorganization plan does not transfer any functions to or from the panel.

CONCLUSION

Organizational plans, no matter how extensive or well-conceived, will not in themselves ensure consolidation and coordination of functions. It is essential that a Labor and Workforce Development Agency is established without delay in order to more effectively accomplish the goals of this Administration.

The organizational model described above should be viewed as the first step in a continuing effort to improve California's economic environment and the support of government for the state's workers and employers. Further examination and legislative changes will be necessary to ensure that the Labor and Workforce Development Agency provides the necessary resources, expertise and accessibility to make a difference in the lives of all working Californians. As the fifth largest economy in the world, California has already set a standard for the rest of the country with its vitality, flexibility and innovation. The Labor and Workforce Development Agency can help set a companion standard: one of commitment, effectiveness and engagement with a workforce, which always has driven the engine of the state's prosperity.